

Re: LULAC v. Abbott, No. 3:2-cv-259 (Redistricting), Legislator documents

Kenneth Parreno

Mon 7/18/2022 2:11 PM

To: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; Nina Perales <nperales@MALDEF.org>; Fatima Menendez <fmenendez@MALDEF.org>; Julia Longoria <Jlongoria@MALDEF.org>;

Cc: Patrick Sweeten <Patrick.Sweeten@oag.texas.gov>; Will Thompson <Will.Thompson@oag.texas.gov>; taylor@consovoymccarthy.com <taylor@consovoymccarthy.com>; frank@consovoymccarthy.com <frank@consovoymccarthy.com>; Courtney Corbello <Courtney.Corbello@oag.texas.gov>; Ryan Kercher <Ryan.Kercher@oag.texas.gov>; Munera Al-Fuhaid <Munera.Al-Fuhaid@oag.texas.gov>; Ari Herbert <Ari.Herbert@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>;

Hi Jack,

Thank you for your message and for confirming that you will not disclose any of the documents that were listed in the attachments to LULAC Plaintiffs' July 17, 2022 email, with the exception of the documents you will produce to us today that were also at issue in the United States' motion to enforce, Dkt. 351.

We do not oppose your request to respond to our forthcoming motion to compel by July 29, 2022.

Thank you,
Kenneth

From: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>

Sent: Monday, July 18, 2022 2:02 PM

To: Kenneth Parreno; Nina Perales; Fatima Menendez; Julia Longoria

Cc: Patrick Sweeten; Will Thompson; taylor@consovoymccarthy.com; frank@consovoymccarthy.com; Courtney Corbello; Ryan Kercher; Munera Al-Fuhaid; Ari Herbert; Kathleen Hunker

Subject: RE: LULAC v. Abbott, No. 3:2-cv-259 (Redistricting), Legislator documents

Hi Kenneth,

Thank you for your message. We will not oppose your motion to file a fifteen-page brief. In exchange, will you please advise if you will agree to a motion for leave to extend the response date from July 25 to July 29?

To your first point, we confirm we do not intend to produce any of the documents at issue in the United States' motion, ECF 351, with one important exception. In the opposition brief, the Legislators indicated they withdrew a number of privilege assertions, and intended to produce those documents (and since have done so). To the extent they overlap with the LULAC subpoenas, we will produce the same documents to you, by the end of today.

In addition, and in general, we disagree with your characterization of the documents and privilege assertions. Specifically, as to your second point, we would note that the question you have posed is already a question pending before the Court, where our position is that the documents are privileged and do not lose their privileged merely because they involve data.

Thank you,

Jack

Jack DiSorbo
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From: Kenneth Parreno <Kparreno@MALDEF.org>
Sent: Sunday, July 17, 2022 11:53 PM
To: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>; Nina Perales <nperales@MALDEF.org>; Fatima Menendez <fmenendez@MALDEF.org>; Julia Longoria <Jlongoria@MALDEF.org>
Cc: Patrick Sweeten <Patrick.Sweeten@oag.texas.gov>; Will Thompson <Will.Thompson@oag.texas.gov>; taylor@consovoymccarthy.com; frank@consovoymccarthy.com; Courtney Corbello <Courtney.Corbello@oag.texas.gov>; Ryan Kercher <Ryan.Kercher@oag.texas.gov>; Munera Al-Fuhaid <Munera.Al-Fuhaid@oag.texas.gov>; Ari Herbert <Ari.Herbert@oag.texas.gov>; Kathleen Hunker <Kathleen.Hunker@oag.texas.gov>
Subject: Re: LULAC v. Abbott, No. 3:2-cv-259 (Redistricting), Legislator documents

Hi Jack,

Thank you for your July 14, 2022 letter in response to our July 5, 2022 meet-and-confer letter. I'm writing to respond to the points you raised at the end of your letter (Pages 4 and 5), to confirm once more that you will not produce any of the documents in the attached spreadsheets, and to inquire whether you oppose LULAC Plaintiffs' motion for leave to file a brief in support of our forthcoming motion to compel that shall not exceed 15 pages, exclusive of the case caption, signature block, etc. In light of our deadline to file a motion to compel, please respond to this email by July 18, 2022 at 5pm.

First, attached are two documents: (1) a spreadsheet that shows the documents that LULAC Plaintiffs seek that are at issue in the United States' motion to enforce, Dkt. 351, and (2) a spreadsheet that shows the documents that LULAC Plaintiffs seek that are not at issue in the United States' motion. I will note that all of these documents were included in the spreadsheets we provided to Respondents as attachments to our July 5, 2022 meet-and-confer letter.

Second, in addition to the arguments already raised in that letter, LULAC Plaintiffs intend to assert that the documents with the descriptions of "confidential bill draft and related materials" and "confidential document[s] relating to draft redistricting legislation," see July 5 meet-and-confer letter, Exs. C and D, also contain underlying data or factually-based information that is not protected by the legislative privilege, attorney-client privilege, and/or work product doctrine, in light of Respondents' representation in their July 14, 2022 letter that those documents include but are not limited to data, notes, figures, reports, analyses, reports, and other information. LULAC Plaintiffs note that they raised that argument in their July 5, 2022 meet-and-confer letter with respect to other documents.

Our understanding from your July 14, 2022 letter is that you do not intend to produce any of the documents in the attached spreadsheets. Please advise if, in light of the above, you intend to produce any of the documents in the attached spreadsheets; if not, please confirm once more that you intend not to produce any of those documents.

Additionally, because it appears that we cannot agree over whether the documents listed in the attached spreadsheets should be disclosed, LULAC Plaintiffs intend to file a motion to compel the production of the documents listed in the attached spreadsheets on Monday, July 18, 2022, pursuant to the Stipulated ESI Agreement (Dkt. 203). In connection with that motion to compel, LULAC Plaintiffs intend to request leave to exceed the page limit for discovery-related motions by 5 pages, to file a brief that shall not exceed 15 pages, exclusive of the caption, signature block, etc. Please advise whether Respondents oppose that request.

Thank you,
Kenneth

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From: Jack DiSorbo <Jack.DiSorbo@oag.texas.gov>
Sent: Thursday, July 14, 2022 6:22 PM
To: Nina Perales; Kenneth Parreno; Fatima Menendez
Cc: Patrick Sweeten; Will Thompson; taylor@consovoymccarthy.com; frank@consovoymccarthy.com; Courtney Corbello; Ryan Kercher; Munera Al-Fuhaid; Ari Herbert; Kathleen Hunker
Subject: LULAC v. Abbott, No. 3:2-cv-259 (Redistricting), Legislator documents

Counsel,

Please see the attached letter in response to your letter of last week.

Sincerely, Jack DiSorbo

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